

(July 1, 1944, ch. 373, title XXI, §2134, as added Pub. L. 100-203, title IV, §4303(f), Dec. 22, 1987, 101 Stat. 1330-222.)

CODIFICATION

In subsecs. (a) and (b), “December 22, 1987” substituted for “the effective date of this subpart” on authority of section 323 of Pub. L. 99-660, as amended, set out as an Effective Date note under section 300aa-1 of this title.

SUBCHAPTER XX—REQUIREMENTS FOR CERTAIN GROUP HEALTH PLANS FOR CERTAIN STATE AND LOCAL EMPLOYEES

§ 300bb-1. State and local governmental group health plans must provide continuation coverage to certain individuals

(a) In general

In accordance with regulations which the Secretary shall prescribe, each group health plan that is maintained by any State that receives funds under this chapter, by any political subdivision of such a State, or by any agency or instrumentality of such a State or political subdivision, shall provide, in accordance with this subchapter, that each qualified beneficiary who would lose coverage under the plan as a result of a qualifying event is entitled, under the plan, to elect, within the election period, continuation coverage under the plan.

(b) Exception for certain plans

Subsection (a) of this section shall not apply to—

(1) any group health plan for any calendar year if all employers maintaining such plan normally employed fewer than 20 employees on a typical business day during the preceding calendar year, or

(2) any group health plan maintained for employees by the government of the District of Columbia or any territory or possession of the United States or any agency or instrumentality.

(July 1, 1944, ch. 373, title XXII, §2201, as added Pub. L. 99-272, title X, §10003(a), Apr. 7, 1986, 100 Stat. 232; amended Pub. L. 101-239, title VI, §6801(a)(1), Dec. 19, 1989, 103 Stat. 2296.)

AMENDMENTS

1989—Subsec. (b). Pub. L. 101-239 struck out at end “Under regulations, rules similar to the rules of subsections (a) and (b) of section 52 of title 26 (relating to employers under common control) shall apply for purposes of paragraph (1).”

EFFECTIVE DATE OF 1989 AMENDMENT

Section 6801(a)(2) of Pub. L. 101-239 provided that: “The amendment made by paragraph (1) [amending this section] shall apply to years beginning after December 31, 1986.”

EFFECTIVE DATE

Section 10003(b) of Pub. L. 99-272 provided that:

“(1) GENERAL RULE.—The amendments made by this section [enacting this subchapter] shall apply to plan years beginning on or after July 1, 1986.

“(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enact-

ment of this Act [Apr. 7, 1986], the amendments made by this section shall not apply to plan years beginning before the later of—

“(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

“(B) January 1, 1987.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.”

§ 300bb-2. Continuation coverage

For purposes of section 300bb-1 of this title, the term “continuation coverage” means coverage under the plan which meets the following requirements:

(1) Type of benefit coverage

The coverage must consist of coverage which, as of the time the coverage is being provided, is identical to the coverage provided under the plan to similarly situated beneficiaries under the plan with respect to whom a qualifying event has not occurred. If coverage is modified under the plan for any group of similarly situated beneficiaries, such coverage shall also be modified in the same manner for all individuals who are qualified beneficiaries under the plan pursuant to this part¹ in connection with such group.

(2) Period of coverage

The coverage must extend for at least the period beginning on the date of the qualifying event and ending not earlier than the earliest of the following:

(A) Maximum required period

(i) General rule for terminations and reduced hours

In the case of a qualifying event described in section 300bb-3(2) of this title, except as provided in clause (ii), the date which is 18 months after the date of the qualifying event.

(ii) Special rule for multiple qualifying events

If a qualifying event occurs during the 18 months after the date of a qualifying event described in section 300bb-3(2) of this title, the date which is 36 months after the date of the qualifying event described in section 300bb-3(2) of this title.

(iii) General rule for other qualifying events

In the case of a qualifying event not described in section 300bb-3(2) of this title, the date which is 36 months after the date of the qualifying event.

(iv) Special rule for TAA-eligible individuals

In the case of a qualifying event described in section 300bb-3(2) of this title with respect to a covered employee who is

¹ So in original. This subchapter is not divided into parts.

(as of the date that the period of coverage would, but for this clause or clause (v), otherwise terminate under clause (i) or (ii)) a TAA-eligible individual (as defined in section 300bb-5(b)(4)(B) of this title), the period of coverage shall not terminate by reason of clause (i) or (ii), as the case may be, before the later of the date specified in such clause or the date on which such individual ceases to be such a TAA-eligible individual. The preceding sentence shall not require any period of coverage to extend beyond February 12, 2011.

(v) Medicare entitlement followed by qualifying event

In the case of a qualifying event described in section 300bb-3(2) of this title that occurs less than 18 months after the date the covered employee became entitled to benefits under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.], the period of coverage for qualified beneficiaries other than the covered employee shall not terminate under this subparagraph before the close of the 36-month period beginning on the date the covered employee became so entitled.

(vi) Special rule for disability

In the case of a qualified beneficiary who is determined, under title II or XVI of the Social Security Act [42 U.S.C. 401 et seq., 1381 et seq.], to have been disabled at any time during the first 60 days of continuation coverage under this subchapter, any reference in clause (i) or (ii) to 18 months is deemed a reference to 29 months (with respect to all qualified beneficiaries), but only if the qualified beneficiary has provided notice of such determination under section 300bb-6(3) of this title before the end of such 18 months.

(B) End of plan

The date on which the employer ceases to provide any group health plan to any employee.

(C) Failure to pay premium

The date on which coverage ceases under the plan by reason of a failure to make timely payment of any premium required under the plan with respect to the qualified beneficiary. The payment of any premium (other than any payment referred to in the last sentence of paragraph (3)) shall be considered to be timely if made within 30 days after the date due or within such longer period as applies to or under the plan.

(D) Group health plan coverage or medicare entitlement

The date on which the qualified beneficiary first becomes, after the date of the election—

(i) covered under any other group health plan (as an employee or otherwise) which does not contain any exclusion or limitation with respect to any preexisting condition of such beneficiary (other than such an exclusion or limitation which does not apply to (or is satisfied by) such bene-

ficiary by reason of chapter 100 of title 26, part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1181 et seq.], or subchapter XXV of this chapter), or

(ii) entitled to benefits under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.].

(E) Termination of extended coverage for disability

In the case of a qualified beneficiary who is disabled at any time during the first 60 days of continuation coverage under this subchapter, the month that begins more than 30 days after the date of the final determination under title II or XVI of the Social Security Act [42 U.S.C. 401 et seq., 1381 et seq.] that the qualified beneficiary is no longer disabled.

(3) Premium requirements

The plan may require payment of a premium for any period of continuation coverage, except that such premium—

(A) shall not exceed 102 percent of the applicable premium for such period, and

(B) may, at the election of the payor, be made in monthly installments.

In no event may the plan require the payment of any premium before the day which is 45 days after the day on which the qualified beneficiary made the initial election for continuation coverage.² In the case of an individual described in the last sentence of paragraph (2)(A), any reference in subparagraph (A) of this paragraph to “102 percent” is deemed a reference to “150 percent” for any month after the 18th month of continuation coverage described in clause (i) or (ii) of paragraph (2)(A).

(4) No requirement of insurability

The coverage may not be conditioned upon, or discriminate on the basis of lack of, evidence of insurability.

(5) Conversion option

In the case of a qualified beneficiary whose period of continuation coverage expires under paragraph (2)(A), the plan must, during the 180-day period ending on such expiration date, provide to the qualified beneficiary the option of enrollment under a conversion health plan otherwise generally available under the plan.

(July 1, 1944, ch. 373, title XXII, § 2202, as added Pub. L. 99-272, title X, § 10003(a), Apr. 7, 1986, 100 Stat. 233; amended Pub. L. 99-514, title XVIII, § 1895(d)(1)(C), (2)(C), (3)(C), (4)(C), Oct. 22, 1986, 100 Stat. 2937-2939; Pub. L. 101-239, title VI, §§ 6702(a), (b), 6801(b)(1)(A), (2)(A), (3)(A), Dec. 19, 1989, 103 Stat. 2295, 2297; Pub. L. 104-188, title I, § 1704(g)(1)(C), Aug. 20, 1996, 110 Stat. 1880; Pub. L. 104-191, title IV, § 421(a)(1), Aug. 21, 1996, 110 Stat. 2087; Pub. L. 111-5, div. B, title I, § 1899F(c), Feb. 17, 2009, 123 Stat. 429; Pub. L. 111-344, title I, § 116(c), Dec. 29, 2010, 124 Stat. 3616.)

REFERENCES IN TEXT

The Social Security Act, referred to in par. (2)(A)(v), (vi), (D)(ii), and (E), is act Aug. 14, 1935, ch. 531, 49 Stat.

² See 1989 Amendment note below.

620. Titles II, XVI, and XVIII of the Social Security Act are classified generally to subchapters II (§401 et seq.), XVI (§1381 et seq.), and XVIII (§1395 et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Employee Retirement Income Security Act of 1974, referred to in par. (2)(D)(i), is Pub. L. 93-406, Sept. 2, 1974, 88 Stat. 829. Part 7 of subtitle B of title I of the Act is classified generally to part 7 (§1181 et seq.) of subtitle B of subchapter I of chapter 18 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

AMENDMENTS

2010—Par. (2)(A)(iv). Pub. L. 111-344 substituted “February 12, 2011” for “December 31, 2010”.

2009—Par. (2)(A). Pub. L. 111-5, §1899F(c)(1), designated concluding provisions as cl. (v) and inserted heading.

Par. (2)(A)(iv) to (vi). Pub. L. 111-5, §1899F(c)(2), added cl. (iv) and redesignated former cls. (iv) and (v) as (v) and (vi), respectively.

1996—Par. (2)(A). Pub. L. 104-191, §421(a)(1)(A)(ii)(IV), inserted “(with respect to all qualified beneficiaries)” after “29 months” in concluding provisions.

Pub. L. 104-191, §421(a)(1)(A)(ii)(III), which directed amendment of concluding provisions by striking “with respect to such event,” was executed by striking that phrase, which did not contain a comma at end, before “is deemed a reference” to reflect the probable intent of Congress.

Pub. L. 104-191, §421(a)(1)(A)(ii)(I), (II), in concluding provisions, substituted “a qualified beneficiary” for “an individual” and “at any time during the first 60 days of continuation coverage under this subchapter” for “at the time of a qualifying event described in section 300bb-3(2) of this title”.

Pub. L. 104-191, §421(a)(1)(A)(i), transferred sentence following cl. (iii) to appear as concluding provisions following cl. (iv).

Par. (2)(A)(iv). Pub. L. 104-188 amended heading and text of cl. (iv) generally. Prior to amendment, text read as follows: “In the case of an event described in section 300bb-3(4) of this title (without regard to whether such event is a qualifying event), the period of coverage for qualified beneficiaries other than the covered employee for such event or any subsequent qualifying event shall not terminate before the close of the 36-month period beginning on the date the covered employee becomes entitled to benefits under title XVIII of the Social Security Act.”

Par. (2)(D)(i). Pub. L. 104-191, §421(a)(1)(B), inserted “(other than such an exclusion or limitation which does not apply to (or is satisfied by) such beneficiary by reason of chapter 100 of title 26, part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, or subchapter XXV of this chapter)” before “, or”.

Par. (2)(E). Pub. L. 104-191, §421(a)(1)(C), substituted “at any time during the first 60 days of continuation coverage under this subchapter” for “at the time of a qualifying event described in section 300bb-3(2) of this title”.

1989—Par. (2)(A). Pub. L. 101-239, §6702(a)(1), inserted after cl. (iii) “In the case of an individual who is determined, under title II or XVI of the Social Security Act, to have been disabled at the time of a qualifying event described in section 300bb-3(2) of this title, any reference in clause (i) or (ii) to 18 months with respect to such event is deemed a reference to 29 months, but only if the qualified beneficiary has provided notice of such determination under section 300bb-6(3) of this title before the end of such 18 months.”

Par. (2)(A)(iv). Pub. L. 101-239, §6801(b)(1)(A), added cl. (iv).

Par. (2)(D). Pub. L. 101-239, §6801(b)(2)(A), substituted “entitlement” for “eligibility” in heading and inserted “which does not contain any exclusion or limitation

with respect to any preexisting condition of such beneficiary” after “or otherwise)” in cl. (i).

Par. (2)(E). Pub. L. 101-239, §6702(a)(2), added subpar. (E).

Par. (3). Pub. L. 101-239, §6801(b)(3)(A), which directed the general amendment of the concluding provision was executed by amending the first sentence of the concluding provision generally to reflect the probable intent of Congress and amendment of concluding provision by Pub. L. 101-239, §6702(b). Prior to amendment, first sentence of the concluding provision read as follows: “If an election is made after the qualifying event, the plan shall permit payment for continuation coverage during the period preceding the election to be made within 45 days of the date of the election.”

Pub. L. 101-239, §6702(b), inserted at end of concluding provision “In the case of an individual described in the last sentence of paragraph (2)(A), any reference in subparagraph (A) of this paragraph to ‘102 percent’ is deemed a reference to ‘150 percent’ for any month after the 18th month of continuation coverage described in clause (i) or (ii) of paragraph (2)(A).” See Amendment note above.

1986—Par. (1). Pub. L. 99-514, §1895(d)(1)(C), inserted at end “If coverage is modified under the plan for any group of similarly situated beneficiaries, such coverage shall also be modified in the same manner for all individuals who are qualified beneficiaries under the plan pursuant to this part in connection with such group.”

Par. (2)(A). Pub. L. 99-514, §1895(d)(2)(C), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “MAXIMUM PERIOD.—In the case of—

“(i) a qualifying event described in section 300bb-3(2) of this title (relating to terminations and reduced hours), the date which is 18 months after the date of the qualifying event, and

“(ii) any qualifying event not described in clause (i), the date which is 36 months after the date of the qualifying event.”

Par. (2)(C). Pub. L. 99-514, §1895(d)(3)(C), inserted at end “The payment of any premium (other than any payment referred to in the last sentence of paragraph (3)) shall be considered to be timely if made within 30 days after the date due or within such longer period as applies to or under the plan.”

Par. (2)(D). Pub. L. 99-514, §1895(d)(4)(C)(ii), (iii), substituted “Group health plan coverage” for “Reemployment” in heading, added cl. (i), and struck out former cl. (i) which read as follows: “a covered employee under any other group health plan, or”.

Par. (2)(E). Pub. L. 99-514, §1895(d)(4)(C)(i), struck out subpar. (E), remarriage of spouse, which read as follows: “In the case of an individual who is a qualified beneficiary by reason of being the spouse of a covered employee, the date on which the beneficiary remarries and becomes covered under a group health plan.”

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-344 applicable to periods of coverage which would (without regard to such amendment) end on or after Dec. 31, 2010, see section 116(d) of Pub. L. 111-344, set out as a note under section 4980B of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 2009 AMENDMENT

Except as otherwise provided and subject to certain applicability provisions, amendment by Pub. L. 111-5 effective upon the expiration of the 90-day period beginning on Feb. 17, 2009, see section 1891 of Pub. L. 111-5, set out as an Effective and Termination Dates of 2009 Amendment note under section 2271 of Title 19, Customs Duties.

Amendment by Pub. L. 111-5 applicable to periods of coverage which would (without regard to amendment by Pub. L. 111-5) end on or after Feb. 17, 2009, see section 1899F(d) of Pub. L. 111-5, set out as a note under section 4980B of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by Pub. L. 104-191 effective Jan. 1, 1997, regardless of whether the qualifying event occurred be-

fore, on, or after such date, see section 421(d) of Pub. L. 104-191, set out as a note under section 4980B of Title 26, Internal Revenue Code.

Amendment by Pub. L. 104-188 applicable to plan years beginning after Dec. 31, 1989, see section 1704(g)(2) of Pub. L. 104-188, set out as a note under section 4980B of Title 26.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 6702(d) of Pub. L. 101-239 provided that: “The amendments made by this section [amending this section and section 300bb-6 of this title] shall apply to plan years beginning on or after the date of the enactment of this Act [Dec. 19, 1989], regardless of whether the qualifying event occurred before, on, or after such date.”

Section 6801(b)(1)(B) of Pub. L. 101-239 provided that: “The amendments made by this paragraph [amending this section] shall apply to plan years beginning after December 31, 1989.”

Section 6801(b)(2)(B) of Pub. L. 101-239 provided that: “The amendments made by subparagraph (A) [amending this section] shall apply to—

“(i) qualifying events occurring after December 31, 1989, and

“(ii) in the case of qualified beneficiaries who elected continuation coverage after December 31, 1988, the period for which the required premium was paid (or was attempted to be paid but was rejected as such).”

Section 6801(b)(3)(B) of Pub. L. 101-239 provided that: “The amendment made by subparagraph (A) [amending this section] shall apply to plan years beginning after December 31, 1989.”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 effective, except as otherwise provided, as if included in enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985, Pub. L. 99-272, see section 1895(e) of Pub. L. 99-514, set out as a note under section 162 of Title 26, Internal Revenue Code.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101-1147 and 1171-1177] or title XVIII [§§ 1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of Title 26, Internal Revenue Code.

§ 300bb-3. Qualifying event

For purposes of this subchapter, the term “qualifying event” means, with respect to any covered employee, any of the following events which, but for the continuation coverage required under this subchapter, would result in the loss of coverage of a qualified beneficiary:

- (1) The death of the covered employee.
- (2) The termination (other than by reason of such employee's gross misconduct), or reduction of hours, of the covered employee's employment.
- (3) The divorce or legal separation of the covered employee from the employee's spouse.
- (4) The covered employee becoming entitled to benefits under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.].
- (5) A dependent child ceasing to be a dependent child under the generally applicable requirements of the plan.

(July 1, 1944, ch. 373, title XXII, § 2203, as added Pub. L. 99-272, title X, § 10003(a), Apr. 7, 1986, 100 Stat. 234.)

REFERENCES IN TEXT

The Social Security Act, referred to in par. (4), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XVIII of the Social Security Act is classified generally to subchapter XVIII (§ 1395 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

§ 300bb-4. Applicable premium

For purposes of this subchapter—

(1) In general

The term “applicable premium” means, with respect to any period of continuation coverage of qualified beneficiaries, the cost to the plan for such period of the coverage for similarly situated beneficiaries with respect to whom a qualifying event has not occurred (without regard to whether such cost is paid by the employer or employee).

(2) Special rule for self-insured plans

To the extent that a plan is a self-insured plan—

(A) In general

Except as provided in subparagraph (B), the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to a reasonable estimate of the cost of providing coverage for such period for similarly situated beneficiaries which—

- (i) is determined on an actuarial basis, and
- (ii) takes into account such factors as the Secretary may prescribe in regulations.

(B) Determination on basis of past cost

If a plan administrator elects to have this subparagraph apply, the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to—

- (i) the cost to the plan for similarly situated beneficiaries for the same period occurring during the preceding determination period under paragraph (3), adjusted by
- (ii) the percentage increase or decrease in the implicit price deflator of the gross national product (calculated by the Department of Commerce and published in the Survey of Current Business) for the 12-month period ending on the last day of the sixth month of such preceding determination period.

(C) Subparagraph (B) not to apply where significant change

A plan administrator may not elect to have subparagraph (B) apply in any case in which there is any significant difference, between the determination period and the preceding determination period, in coverage under, or in employees covered by, the plan. The determination under the preceding sentence for any determination period shall be made at the same time as the determination under paragraph (3).

(3) Determination period

The determination of any applicable premium shall be made for a period of 12 months

and shall be made before the beginning of such period.

(July 1, 1944, ch. 373, title XXII, § 2204, as added Pub. L. 99-272, title X, § 10003(a), Apr. 7, 1986, 100 Stat. 234.)

§ 300bb-5. Election

(a) In general

For purposes of this subchapter—

(1) Election period

The term “election period” means the period which—

(A) begins not later than the date on which coverage terminates under the plan by reason of a qualifying event,

(B) is of at least 60 days’ duration, and

(C) ends not earlier than 60 days after the later of—

(i) the date described in subparagraph (A), or

(ii) in the case of any qualified beneficiary who receives notice under section 300bb-6(4) of this title, the date of such notice.

(2) Effect of election on other beneficiaries

Except as otherwise specified in an election, any election of continuation coverage by a qualified beneficiary described in subparagraph (A)(i) or (B) of section 300bb-8(3) of this title shall be deemed to include an election of continuation coverage on behalf of any other qualified beneficiary who would lose coverage under the plan by reason of the qualifying event. If there is a choice among types of coverage under the plan, each qualified beneficiary is entitled to make a separate selection among such types of coverage.

(b) Temporary extension of COBRA election period for certain individuals

(1) In general

In the case of a nonelecting TAA-eligible individual and notwithstanding subsection (a) of this section, such individual may elect continuation coverage under this subchapter during the 60-day period that begins on the first day of the month in which the individual becomes a TAA-eligible individual, but only if such election is made not later than 6 months after the date of the TAA-related loss of coverage.

(2) Commencement of coverage; no reach-back

Any continuation coverage elected by a TAA-eligible individual under paragraph (1) shall commence at the beginning of the 60-day election period described in such paragraph and shall not include any period prior to such 60-day election period.

(3) Preexisting conditions

With respect to an individual who elects continuation coverage pursuant to paragraph (1), the period—

(A) beginning on the date of the TAA-related loss of coverage, and

(B) ending on the first day of the 60-day election period described in paragraph (1),

shall be disregarded for purposes of determining the 63-day periods referred to in section

2701(c)(2),¹ section 1181(c)(2) of title 29, and section 9801(c)(2) of title 26.

(4) Definitions

For purposes of this subsection:

(A) Nonelecting TAA-eligible individual

The term “nonelecting TAA-eligible individual” means a TAA-eligible individual who—

(i) has a TAA-related loss of coverage; and

(ii) did not elect continuation coverage under this part² during the TAA-related election period.

(B) TAA-eligible individual

The term “TAA-eligible individual” means—

(i) an eligible TAA recipient (as defined in paragraph (2) of section 35(c) of title 26), and

(ii) an eligible alternative TAA recipient (as defined in paragraph (3) of such section).

(C) TAA-related election period

The term “TAA-related election period” means, with respect to a TAA-related loss of coverage, the 60-day election period under this part² which is a direct consequence of such loss.

(D) TAA-related loss of coverage

The term “TAA-related loss of coverage” means, with respect to an individual whose separation from employment gives rise to being an TAA-eligible individual, the loss of health benefits coverage associated with such separation.

(July 1, 1944, ch. 373, title XXII, § 2205, as added Pub. L. 99-272, title X, § 10003(a), Apr. 7, 1986, 100 Stat. 235; amended Pub. L. 99-514, title XVIII, § 1895(d)(5)(C), Oct. 22, 1986, 100 Stat. 2939; Pub. L. 107-210, div. A, title II, § 203(e)(2), Aug. 6, 2002, 116 Stat. 970.)

REFERENCES IN TEXT

Section 2701, referred to in subsec. (b)(3), is a reference to section 2701 of act July 1, 1944. Section 2701, which was classified to section 300gg of this title, was renumbered section 2704, effective for plan years beginning on or after Jan. 1, 2014, with certain exceptions, and amended, by Pub. L. 111-148, title I, §§ 1201(2), 1563(c)(1), formerly § 1562(c)(1), title X, § 10107(b)(1), Mar. 23, 2010, 124 Stat. 154, 264, 911, and was transferred to section 300gg-3 of this title. A new section 2701 of act July 1, 1944, related to fair health insurance premiums, was added, effective for plan years beginning on or after Jan. 1, 2014, and amended, by Pub. L. 111-148, title I, § 1201(4), title X, § 10103(a), Mar. 23, 2010, 124 Stat. 155, 892, and is classified to section 300gg of this title.

AMENDMENTS

2002—Pub. L. 107-210 designated existing provisions as subsec. (a), inserted subsec. heading, and added subsec. (b).

1986—Par. (2). Pub. L. 99-514 inserted “of continuation coverage” after “any election” and inserted at end “If there is a choice among types of coverage under the plan, each qualified beneficiary is entitled to make a separate selection among such types of coverage.”.

¹ See References in Text note below.

² So in original. This subchapter is not divided into parts.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-210 applicable to petitions for certification filed under part 2 or 3 of subchapter II of chapter 12 of Title 19, Customs Duties, on or after the date that is 90 days after Aug. 6, 2002, except as otherwise provided, see section 151 of Pub. L. 107-210, set out as a note preceding section 2271 of Title 19.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 effective, except as otherwise provided, as if included in enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985, Pub. L. 99-272, see section 1895(e) of Pub. L. 99-514, set out as a note under section 162 of Title 26, Internal Revenue Code.

CONSTRUCTION OF 2002 AMENDMENT

Nothing in amendment by Pub. L. 107-210, other than provisions relating to COBRA continuation coverage and reporting requirements, to be construed as creating new mandate on any party regarding health insurance coverage, see section 203(f) of Pub. L. 107-210, set out as a note under section 2918 of Title 29, Labor.

PLAN AMENDMENTS NOT REQUIRED UNTIL
JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101-1147 and 1171-1177] or title XVIII [§§ 1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of Title 26, Internal Revenue Code.

§ 300bb-6. Notice requirements

In accordance with regulations prescribed by the Secretary—

(1) the group health plan shall provide, at the time of commencement of coverage under the plan, written notice to each covered employee and spouse of the employee (if any) of the rights provided under this subsection.¹

(2) the employer of an employee under a plan must notify the plan administrator of a qualifying event described in paragraph (1), (2), or (4) of section 300bb-3 of this title within 30 days of the date of the qualifying event,

(3) each covered employee or qualified beneficiary is responsible for notifying the plan administrator of the occurrence of any qualifying event described in paragraph (3) or (5) of section 300bb-3 of this title within 60 days after the date of the qualifying event and each qualified beneficiary who is determined, under title II or XVI of the Social Security Act [42 U.S.C. 401 et seq., 1381 et seq.], to have been disabled at any time during the first 60 days of continuation coverage under this subchapter is responsible for notifying the plan administrator of such determination within 60 days after the date of the determination and for notifying the plan administrator within 30 days after the date of any final determination under such title or titles that the qualified beneficiary is no longer disabled, and

(4) the plan administrator shall notify—

(A) in the case of a qualifying event described in paragraph (1), (2), or (4) of section 300bb-3 of this title, any qualified beneficiary with respect to such event, and

(B) in the case of a qualifying event described in paragraph (3) or (5) of section 300bb-3 of this title where the covered employee notifies the plan administrator under paragraph (3), any qualified beneficiary with respect to such event,

of such beneficiary's rights under this subsection.¹

For purposes of paragraph (4), any notification shall be made within 14 days of the date on which the plan administrator is notified under paragraph (2) or (3), whichever is applicable, and any such notification to an individual who is a qualified beneficiary as the spouse of the covered employee shall be treated as notification to all other qualified beneficiaries residing with such spouse at the time such notification is made.

(July 1, 1944, ch. 373, title XXII, § 2206, as added Pub. L. 99-272, title X, § 10003(a), Apr. 7, 1986, 100 Stat. 235; amended Pub. L. 99-514, title XVIII, § 1895(d)(6)(C), Oct. 22, 1986, 100 Stat. 2939; Pub. L. 100-203, title IV, § 4009(j)(8), Dec. 22, 1987, 101 Stat. 1330-59; Pub. L. 101-239, title VI, § 6702(c), Dec. 19, 1989, 103 Stat. 2295; Pub. L. 104-191, title IV, § 421(a)(2), Aug. 21, 1996, 110 Stat. 2088.)

REFERENCES IN TEXT

The Social Security Act, referred to in par. (3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles II and XVI of the Social Security Act are classified generally to subchapters II (§ 401 et seq.) and XVI (§ 1381 et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

AMENDMENTS

1996—Par. (3). Pub. L. 104-191 substituted “at any time during the first 60 days of continuation coverage under this subchapter” for “at the time of a qualifying event described in section 300bb-3(2) of this title”.

1989—Par. (3). Pub. L. 101-239 inserted “and each qualified beneficiary who is determined, under title II or XVI of the Social Security Act, to have been disabled at the time of a qualifying event described in section 300bb-3(2) of this title is responsible for notifying the plan administrator of such determination within 60 days after the date of the determination and for notifying the plan administrator within 30 days after the date of any final determination under such title or titles that the qualified beneficiary is no longer disabled” after “date of the qualifying event”.

1987—Par. (3). Pub. L. 100-203 amended directory language of Pub. L. 99-514, see 1986 Amendment note below.

1986—Par. (3). Pub. L. 99-514, as amended by Pub. L. 100-203, inserted “within 60 days after the date of the qualifying event”.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-191 effective Jan. 1, 1997, regardless of whether the qualifying event occurred before, on, or after such date, see section 421(d) of Pub. L. 104-191, set out as a note under section 4980B of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 applicable to plan years beginning on or after Dec. 19, 1989, regardless of whether the qualifying event occurred before, on, or after such date, see section 6702(d) of Pub. L. 101-239, set out as a note under section 300bb-2 of this title.

¹ So in original. Probably should be “subchapter”.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 4009(j)(8) of Pub. L. 100-203 provided that the amendment made by that section is effective as if included in Pub. L. 99-514.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable only with respect to qualifying events occurring after Oct. 22, 1986, see section 1895(d)(6)(D) of Pub. L. 99-514, set out as a note under section 162 of Title 26, Internal Revenue Code.

NOTIFICATION TO COVERED EMPLOYEES

Section 10003(c) of Pub. L. 99-272 provided that: "At the time that the amendments made by this section [enacting this subchapter] apply to a group health plan (covered under section 2201 of the Public Health Service Act [section 300bb-1 of this title]), the plan shall notify each covered employee, and spouse of the employee (if any), who is covered under the plan at that time of the continuation coverage required under title XXII of such Act [this subchapter]. The notice furnished under this subsection is in lieu of notice that may otherwise be required under section 2206(1) of such Act [par. (1) of this section] with respect to such individuals."

§ 300bb-7. Enforcement

Any individual who is aggrieved by the failure of a State, political subdivision, or agency or instrumentality thereof, to comply with the requirements of this subchapter may bring an action for appropriate equitable relief.

(July 1, 1944, ch. 373, title XXII, § 2207, as added Pub. L. 99-272, title X, § 10003(a), Apr. 7, 1986, 100 Stat. 236.)

CONTINUED COVERAGE OF COSTS OF PEDIATRIC VACCINE UNDER CERTAIN GROUP HEALTH PLANS

Pub. L. 103-66, title XIII, § 13631(d), Aug. 10, 1993, 107 Stat. 643, provided that:

"(1) REQUIREMENT.—The requirement of this paragraph, with respect to a group health plan for plan years beginning after the date of the enactment of this Act [Aug. 10, 1993], is that the group health plan not reduce its coverage of the costs of pediatric vaccines (as defined under section 1928(h)(6) of the Social Security Act [section 1396s(h)(6) of this title]) below the coverage it provided as of May 1, 1993.

"(2) ENFORCEMENT.—For purposes of section 2207 of the Public Health Service Act [this section], the requirement of paragraph (1) is deemed a requirement of title XXII of such Act [this subchapter]."

§ 300bb-8. Definitions

For purposes of this subchapter—

(1) Group health plan

The term "group health plan" has the meaning given such term in 5000(b)¹ of title 26. Such term shall not include any plan substantially all of the coverage under which is for qualified long-term care services (as defined in section 7702B(c) of title 26).

(2) Covered employee

The term "covered employee" means an individual who is (or was) provided coverage under a group health plan by virtue of the performance of services by the individual for 1 or more persons maintaining the plan (including as an employee defined in section 401(c)(1) of title 26).

(3) Qualified beneficiary**(A) In general**

The term "qualified beneficiary" means, with respect to a covered employee under a group health plan, any other individual who, on the day before the qualifying event for that employee, is a beneficiary under the plan—

- (i) as the spouse of the covered employee, or
- (ii) as the dependent child of the employee.

Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continuation coverage under this subchapter.

(B) Special rule for terminations and reduced employment

In the case of a qualifying event described in section 300bb-3(2) of this title, the term "qualified beneficiary" includes the covered employee.

(4) Plan administrator

The term "plan administrator" has the meaning given the term "administrator" by section 1002(16)(A) of title 29.

(July 1, 1944, ch. 373, title XXII, § 2208, as added Pub. L. 99-272, title X, § 10003(a), Apr. 7, 1986, 100 Stat. 236; amended Pub. L. 100-647, title III, § 3011(b)(7), Nov. 10, 1988, 102 Stat. 3625; Pub. L. 101-239, title VI, § 6801(c)(1), Dec. 19, 1989, 103 Stat. 2297; Pub. L. 104-191, title I, § 102(d), title III, § 321(d)(3), title IV, § 421(a)(3), Aug. 21, 1996, 110 Stat. 1978, 2059, 2088.)

AMENDMENTS

1996—Par. (1). Pub. L. 104-191, § 321(d)(3), inserted at end "Such term shall not include any plan substantially all of the coverage under which is for qualified long-term care services (as defined in section 7702B(c) of title 26)."

Pub. L. 104-191, § 102(d), substituted "5000(b)" for "section 162(i)(2)".

Par. (3)(A). Pub. L. 104-191, § 421(a)(3), inserted at end "Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continuation coverage under this subchapter."

1989—Par. (2). Pub. L. 101-239 substituted "the performance of services by the individual for 1 or more persons maintaining the plan (including as an employee defined in section 401(c)(1) of title 26)" for "the individual's employment or previous employment with an employer".

1988—Par. (1). Pub. L. 100-647 substituted "section 162(i)(2) of the Internal Revenue Code of 1986" for "section 162(i)(3) of the Internal Revenue Code of 1954", which for purposes of codification was translated as "section 162(i)(2) of title 26".

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 321(d)(3) of Pub. L. 104-191 applicable to contracts issued after Dec. 31, 1996, see section 321(f) of Pub. L. 104-191, set out as an Effective Date note under section 7702B of Title 26, Internal Revenue Code.

Amendment by section 421(a)(3) of Pub. L. 104-191 effective Jan. 1, 1997, regardless of whether the qualifying event occurred before, on, or after such date, see section 421(d) of Pub. L. 104-191, set out as a note under section 4980B of Title 26.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 6801(c)(2) of Pub. L. 101-239 provided that: "The amendment made by paragraph (1) [amending this

¹ So in original. Probably should be preceded by "section".

section] shall apply to plan years beginning after December 31, 1989.”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 applicable to taxable years beginning after Dec. 31, 1988, but not applicable to any plan for any plan year to which section 162(k) of Title 26, Internal Revenue Code (as in effect on the day before Nov. 10, 1988), did not apply by reason of section 10001(e)(2) of Pub. L. 99-272, see section 3011(d) of Pub. L. 100-647, set out as a note under section 162 of Title 26.

SUBCHAPTER XXI—RESEARCH WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

PRIOR PROVISIONS

A prior subchapter XXI (§300cc et seq.), comprised of title XXIII of the Public Health Service Act, act July 1, 1944, ch. 373, 2301-2316, was renumbered title XXV, §§2501-2514, of the Public Health Service Act, and transferred to subchapter XXV (§300aaa et seq.) of this chapter, renumbered title XXVI, §§2601-2614, of the Public Health Service Act, renumbered title XXVII, §§2701-2714, of the Public Health Service Act, and renumbered title II, part B, §§231-244, of the Public Health Service Act, and transferred to part B (§238 et seq.) of subchapter I of this chapter.

PART A—ADMINISTRATION OF RESEARCH PROGRAMS

§ 300cc. Repealed. Pub. L. 109-482, title I, § 104(b)(2)(C), Jan. 15, 2007, 120 Stat. 3693

Section, act July 1, 1944, ch. 373, title XXIII, §2301, as added Pub. L. 100-607, title II, §201(4), Nov. 4, 1988, 102 Stat. 3063; amended Pub. L. 102-531, title III, §312(d)(16), Oct. 27, 1992, 106 Stat. 3505, required an annual comprehensive report on all expenditures by Secretary with respect to AIDS.

A prior section 300cc, act July 1, 1944, §2301, was successively renumbered by subsequent acts and transferred, see section 238 of this title.

EFFECTIVE DATE OF REPEAL

Repeal applicable only with respect to amounts appropriated for fiscal year 2007 or subsequent fiscal years, see section 109 of Pub. L. 109-482, set out as an Effective Date of 2007 Amendment note under section 281 of this title.

§ 300cc-1. Requirement of expediting awards of grants and contracts for research

(a) In general

The Secretary shall expedite the award of grants, contracts, and cooperative agreements for research projects relating to acquired immune deficiency syndrome (including such research projects initiated independently of any solicitation by the Secretary for proposals for such research projects).

(b) Time limitations with respect to certain applications

(1) With respect to programs of grants, contracts, and cooperative agreements described in subsection (a) of this section, any application submitted in response to a solicitation by the Secretary for proposals pursuant to such a program—

(A) may not be approved if the application is submitted after the expiration of the 3-month period beginning on the date on which the solicitation is issued; and

(B) shall be awarded, or otherwise finally acted upon, not later than the expiration of the 6-month period beginning on the expiration of the period described in subparagraph (A).

(2) If the Secretary makes a determination that it is not practicable to administer a program referred to in paragraph (1) in accordance with the time limitations described in such paragraph, the Secretary may adjust the time limitations accordingly.

(c) Requirements with respect to adjustments in time limitations

With respect to any program for which a determination described in subsection (b)(2) of this section is made, the Secretary shall—

(1) if the determination is made before the Secretary issues a solicitation for proposals pursuant to the program, ensure that the solicitation describes the time limitations as adjusted by the determination; and

(2) if the determination is made after the Secretary issues such a solicitation for proposals, issue a statement describing the time limitations as adjusted by the determination and individually notify, with respect to the determination, each applicant whose application is submitted before the expiration of the 3-month period beginning on the date on which the solicitation was issued.

(d) Annual reports to Congress

Except as provided in subsection (e) of this section, the Secretary shall annually prepare, for inclusion in the comprehensive report required in section 300cc¹ of this title, a report—

(A) summarizing programs for which the Secretary has made a determination described in subsection (b)(2) of this section, including a description of the time limitations as adjusted by the determination and including a summary of the solicitation issued by the Secretary for proposals pursuant to the program; and

(B) summarizing applications that—

(i) were submitted pursuant to a program of grants, contracts, or cooperative agreements referred to in paragraph (1) of subsection (b) of this section for which a determination described in paragraph (2) of such subsection has not been made; and

(ii) were not processed in accordance with the time limitations described in such paragraph (1).

(e) Quarterly reports for fiscal year 1989

For fiscal year 1989, the report required in subsection (d) of this section shall, not less than quarterly, be prepared and submitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(July 1, 1944, ch. 373, title XXIII, §2302, as added Pub. L. 100-607, title II, §201(4), Nov. 4, 1988, 102 Stat. 3063.)

REFERENCES IN TEXT

Section 300cc of this title, referred to in subsec. (d), was repealed by Pub. L. 109-482, title I, §104(b)(2)(C), Jan. 15, 2007, 120 Stat. 3693.

¹ See References in Text note below.